

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

UNITED STATES OF AMERICA

v.

CRIMINAL NO. 1:23-00109

AUSTIN PANNELL

MEMORANDUM OPINION AND ORDER

Pending before the court is the motion of the defendant Austin Pannell for a continuance of the trial and all pretrial deadlines in this matter. (ECF No. 28.) Counsel for defendant explains that he filed his Notice of Attorney Appearance on November 1, 2023, and he believes more time is needed to review the discovery concerning possible pre-trial procedure, defenses, and mitigation. The government does not object to a continuance.

Because failure to grant the requested continuance would likely result in a miscarriage of justice, the court finds that the ends of justice outweigh the interest of the defendant and the public in a speedy trial, see 18 U.S.C. § 3161(h)(7)(A), and **GRANTS** defendant's motion to continue. In deciding to grant defendant's motion, the court considered the factors outlined in 18 U.S.C. § 3161(h)(7)(B) and finds that denying the motion "would deny counsel for the defendant . . . the reasonable time necessary for effective preparation, taking into account the

exercise of due diligence." Id. § 3161(h)(7)(B)(iv).

Accordingly, the court hereby **ORDERS** as follows:

1. The deadline for the filing of pretrial motions is continued to November 23, 2023;
2. The Pretrial Motions Hearing is continued to December 4, 2023, at 11:30 a.m. in Bluefield;
3. Jury Instructions and Proposed Voir Dire are due by January 2, 2024;
4. Trial of this action is continued to January 9, 2024, at 9:30 a.m. in Bluefield; and
5. Pursuant to 18 U.S.C. § 3161(h)(7)(A), the time from the filing of the motion until the trial is excludable for purposes of the Speedy Trial Act.

The Clerk is directed to send a copy of this Memorandum Opinion and Order to all counsel of record, to the United States Marshal for the Southern District of West Virginia, and to the Probation Office of this court.

IT IS SO ORDERED this 6th day of November, 2023.

ENTER:



David A. Faber
Senior United States District Judge